

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
SURE FIT HOME PRODUCTS, LLC et al.,

:

Plaintiffs,

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ORDER

:

-v.-

:

21 Civ. 2169 (LGS) (GWG)

MAYTEX MILLS, INC.,

:

Defendant.

:

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GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

The Court has considered the parties' joint letter (Docket # 115). The Court makes certain specific rulings as described below. Additionally, with respect to any documents the parties have agreed to produce as reflected in Docket # 115, such documents shall be produced by October 22, 2021. As noted, in many instances, the letter has been written in such a way as to make it impossible for the Court to resolve the dispute based on the letter. To the extent any party wishes to present a discovery dispute to the Court in the future, including disputes raised in this letter as to which the Court has not made a ruling on the merits, it shall do so only in compliance with paragraph 2.A of the Court's Individual Practices.

I. Interrogatories

It is impossible to tell from this letter what the nature of the dispute is. Accordingly, plaintiffs' request for relief is denied at this time.

II. Document Requests

It appears this dispute is resolved.

III. Subpoenas

Any party serving a subpoena on a nonparty must immediately produce to the other side any documents received by that party pursuant to the subpoena.

IV. Rule 30(b)(6) Deposition of Defendant and Rule 30(b)(1) Deposition of David Baines

In light of the fact that Mr. Baines is appearing in two capacities, the Court accepts that more than 7 hours may be required for his deposition. Plaintiffs may depose Mr. Baines for up to an additional 4 hours under a strict rule that no topics addressed during the first deposition may be addressed during the second deposition. The 11 total hours may be divided between Mr. Baines's Rule 30(b)(1) and Rule 30(b)(6) depositions at plaintiffs' choosing.

V. Plaintiffs' Additional Depositions

Plaintiffs are entitled to take the depositions of the proposed witnesses provided they have relevant testimony and their testimony is not cumulative.

VI. Sure Fit's Rule 30(b)(6) Deposition

Sure Fit must produce a witness to testify as to the remaining topic areas.

VII. Notice of Rule 30(b)(6) Deposition of Maytex

This letter provides no basis for obtaining relief from the Court. Additionally, it appears the dispute is not ripe for review inasmuch as plaintiffs are going to submit a new list of topics.

VIII. Plaintiffs' August 27, 2021 Document Production

The Court cannot discern from this letter the contours of the dispute and what relief is being sought from the Court. Accordingly, any request for relief is denied at this time.

IX. Maytex's 2nd and 3rd RFPs

Plaintiffs fail to give any reason why the required production has not been made. Accordingly, plaintiffs are ordered to produce the requested documents by October 22, 2021. With respect to any other dispute as to this production, the Court is unable to discern the nature of the dispute and thus any relief is denied at this time.

Finally, the parties are directed to file with the Court on or before October 15, 2021, joint or separate proposed schedules for the remaining deadlines in this case. The proposed schedule shall include the language in the footnote below as a separate paragraph.¹

SO ORDERED.

Dated: October 8, 2021
New York, New York



GABRIEL W. CORENSTEIN
United States Magistrate Judge

¹ Discovery motions -- that is, any application pursuant to Rules 26 through 37 or 45 -- not only must comply with ¶ 2.A. of the Court's Individual Practices but also must be made promptly after the cause for such a motion arises. In addition, absent extraordinary circumstances no such application will be considered if made later than 30 days prior to the close of discovery. Untimely applications will be denied.